

New Fairfield Zoning Board of Appeals
New Fairfield, Connecticut 06812
MINUTES
December 14, 2020

The New Fairfield Zoning Board of Appeals (ZBA) held a public hearing followed by a business session on **Monday, December 14, 2020** at 7:00 p.m. **via Zoom Web Conference (Meeting ID: 97328186299)**. Secretary Joanne Brown took the Minutes.

ZBA members in attendance: Joe DePaul, Chairman; John Apple, Vice Chairman; Vinny Mancuso; Dan McDermott and Alternates Ann Brown and Bob Jano.

Town Officials in attendance: Pat Del Monaco, First Selectman; Evan White, Zoning Enforcement Officer; Neil Marcus, Town Attorney

Assistant Broadcast Coordinator, Quintin Flower, from the Town of New Fairfield, gave an overview of how the Zoom Web Conference would proceed. Chairman Joe DePaul called the Meeting to order at 7:00 p.m. and introduced the Board Members. Secretary Joanne Brown read the Agenda. Joe DePaul made a motion to add the ZBA 2021 Calendar to the agenda, duly 2nd, approved 5-0.

Application # 46-20: Loy, 106 Lake Drive South (CI), for variances to Zoning Regulations 3.0.6B Swimming Pools, 3.2.5A&B, 3.2.6C Rear Setback to 25', 3.2.11, 7.1.1.2 and 7.2.3A,B&E for the purpose of constructing a 15'x15' spa with planters, steps to grade patio and terrace, walkway and replacing existing steps to lake . Zoning District: R-44; Map: 20; Block: 7; Lot: 4-5.

Lou Yorio, agent, and Anthony Yorio, Attorney for LS Construction LLC, presented the application to install a 15'x15' therapeutic spa. The hardship is the width of the lot and the topography with ledge. A previous variance granted a front setback to 30' and a rear setback to 44'. The new proposal is requesting a rear setback to 25'. Mr. Yorio explained that side setbacks would not be affected to keep the area private from the adjoining neighbors. The spa would be set in the rear, inset in the ground, and surrounded by planters in harmony with the surroundings. Joe DePaul noted that the prior variance granted a rear setback to 44' and to return to ask for another rear setback to 25' is a radical increase in nonconformity. Mr. DePaul noted that there was room to the side to place the spa. Mr. Yorio noted that the sides were not an option because of the septic placement and the applicant's desire to save a 200-year-old oak tree. If the sides were utilized, it would require blasting into ledge and cutting down the tree. Joe DePaul asked the Board for questions. John McCartney asked if the spa could be rotated or placed where the planters were proposed to reduce the setback and lessen nonconformity. Bob Jano noted that the spa is 15'x15' and rotating it would not lessen nonconformity. Mr. Jano agreed that the rear was the best place for it and did not see where else it could go. Joe DePaul noted that the oak tree could be cut down and smaller trees planted in its place. Both John McCartney and Bob Jano agreed that the tree should be saved. John Apple noted that a 19' increase in nonconformity is not really necessary. Joe DePaul debated the hardship for a spa. A brief discussion ensued about possible other areas of placement. Mr. Yorio noted the spa could not be put on the terrace because it would block a

glass wall of windows. John McCartney remarked that the lot is less an ½ acre. Joe DePaul stated that the previous variance doubled the square footage of the house with a vertical expansion. Joe DePaul asked the public for comment. None given. Anthony Yorio asked the board to approve the application as presented, noting that the 15'x15' spa is small in contrast to an in-ground pool. John McCartney asked is a smaller spa would work. Mr. Yorio noted that steps are needed for entry and the smallest useable spa would be 12'x12'. The Board entered the Business Session. John Apple reiterated that a 19' increase in nonconformity is really not necessary. Joe DePaul agreed. Ann Brown noted that the spa is entirely in the setback. Joe DePaul noted that there were other places the spa could be placed without such an increase in nonconformity. Vinny Mancuso stated that the applicant could make the spa smaller. Bob Jano noted that the lot is only ½ acre with a lot on it and there is enough on the property already. Joe DePaul made a motion to grant a rear setback to 25' to allow construction of a spa as per the plans as submitted; the hardship being the rocky slope of the lot, duly 2nd, denied 0-5. Variance denied.

Application # 47-20: Troncale, 26 Eastview Road, for variances to Zoning Regulations 3.0.9C Pergolas, 3.2.5A&B, 3.2.6B Side Setback to 1.9', 3.2.6C Rear Setback to 39', 3.2.11, 7.1.1.2 and 7.2.3A,B&E for the purpose of amending a previously granted variance for an outdoor kitchen including extending the pizza oven to 6', overall height to 8' and width 3' to the south. Zoning District: R-44; Map:11; Block: 3; Lot: 1.

Lou Yorio, agent, and Anthony Yorio, Attorney for LS Construction LLC, presented the application to request an additional 3' for a pizza oven and fireplace from a previously approved variance. Mr. Anthony Yorio explained that he was not involved with the previous application. He explained that the chimneys on the approved design are too short to be useable. The applicant is also seeking a rear setback to 39' to install a pergola for shade. Joe DePaul recalled the previous application and had a problem with the outdoor kitchen being 1.9' from the setback. The approved variance had a stipulation that the oven and fireplace height could not exceed 5'. A brief conversation ensued over the height of the oven and fireplace and how the height would affect the neighbor. Joe DePaul stated that there were other areas in the yard to place it. John Apple noted the increase in height and that the architect agreed with the previous height restriction. Dan McDermott noted an increase in applications that return after being granted asking for more than was originally submitted. John McCartney also noted this increasing trend. Anthony Yorio commented that a higher chimney would mitigate the smoke and he was not party to the first application. Joe DePaul asked the public for comment. A letter was read into the record from Chris and Kristen Renzulli, 28 Eastview Road, noting their support. The applicant is also requesting a pergola for relief from the sun. A brief discussion ensued about awnings noting that an awning would provide minimal shade. The Board entered into the Business Session. Joe DePaul noted that the applicant failed to justify hardship. Dan McDermott agreed and noted that the applicant returned to modify what was previously granted. Joe DePaul made a motion to grant a side setback to 1.9' and a rear setback to 39' to allow a fireplace and pizza oven height to 8' and an addition of a pergola per the plans as submitted; the hardship being the size and shape of the lot, duly 2nd, denied 0-5. Variance denied.

While in the Business Session, John McCartney made a motion to accept the Minutes as presented, duly 2nd, 4-0-1, Vinny Mancuso abstaining.

Application # 48-20: Knox, 27 Candlewood Drive, for variances to Zoning Regulations 3.0.6B Swimming Pools, 3.2.5A&B, 3.2.6A Front Setback to 18', 3.2.6C Rear Setback to 13', 3.2.11, 7.1.1.2 and 7.2.3A&B for the purpose of constructing a 20'x22' deck with hot tub. Zoning District: R-44; Map: 39; Block: 7; Lot: 17.

Application # 48-20 was unopened due to an advertising error. The application advertisement will be corrected and placed on next month's agenda.

Application # 49-20: Town of New Fairfield, 54 Gillotti Road, for variances to Zoning Regulations 3.0.3A Maximum Building Height and 3.1.10 Maximum Building Height for the purpose of constructing a new High School. Zoning District: R-88; Map: 23; Block: 16; Lot 11.

JCJ Architecture, Christine O'Hare, on behalf of the Town of New Fairfield, presented an overview of the construction of the new high school explaining that the only variance they are seeking is for building height. Katy Gagon, PE with Langan, presented a site plan of the proposed high school which will be located south of the existing facility with new bus and faculty parking. Jeff Elliott, JCJ Architecture, discussed the height of the proposed high school verses the height of the existing high school clocktower and presented a chart of showing the various heights of the existing school wings. The average height of the existing school is 34.7'. Evan White noted that the clocktower was part of a variance granted in 1993. Mr. Elliott stated that the classroom area of the existing high school will be demolished. The new high school academic area will be 3 stories along Gillotti Road. The meeting was interrupted with issues on Zoom and reconvened after 15 minutes. Joe DePaul and Neil Marcus, Town Attorney, discussed the validity of reconvening the meeting. It was determined that the meeting was not adjourned and should continue. Christine O'Hare resumed the presentation with a chart showing the high school and existing building heights. The new high school's average height would be 34.5'. The proposed high school's location will sit on a sloped lot, with the back portion exposing 2 stories. The slope of the front would expose 3 stories. The old high school will be demolished except for the pool area, cafeteria, and gym. Vinny Mancuso asked how a wall would be built. Ms. O'Hare explained that the proposed location is so that the school can remain occupied during the construction. Then, a wall will be constructed after demolition during the summer with no disturbance to the school schedule. Joe DePaul asked the public for comment. None given. Joe DePaul noted that historically the board would not grant a variance to an applicant that was in violation of the zoning regulations. Mr. DePaul stated that the Town is in violation with the current storage units at the parking lot by the turf field. Mr. DePaul noted that the storage units create an eyesore. Mr. DePaul stated that the town is violating the zoning regulations and he has tried to get this matter addressed without success. He noted that with the construction of a beautiful new school, he cannot in good conscience allow this eyesore to remain and would vote that as a contingency of the variance, the sheds must be removed. John Apple agreed with the Chairman. Evan White noted that due to Homeland Security regulations, the shed with the Emergency Management supplies must be placed at least 1000' away from the school.

Selectman Pat Del Monaco noted that the town had few storage options and that the Emergency Operations Center storage container housed supplies for the emergency shelter that needs to be kept accessible to the high school. Rich Sanzo, Board of Education, noted that the scope of the high

school project allocated square footage based on projected enrollment and did not allow for extra storage. Mr. Sanzo asked the Board to consider fencing or a visual barrier. John McCartney expressed his concern by adding this stipulation that it would delay the construction of the high school and did not feel that the Board had authority over non-residential applications that would incur expense to the taxpayers. Vinny Mancuso noted that the Chairman was honest and dedicated and agreed that the storage containers were an eyesore and the regulations needed to be enforced. Dan McDermott agreed that the containers were an eyesore and questioned why a 5-bay storage unit could not be built somewhere on the property to house them. Pat Del Monaco noted that she was hearing of this concern for the first time. Attorney Neil Marcus noted the Chairman's frustration over the existing violation and stated that it is not a good process to tie this stipulation to this application even with a proper motive. Mr. Marcus suggested two separate actions; granting a variance on its own merits and filing a formal complaint to correct the zoning violation. Mr. Marcus stated that he would work with Pat Del Monaco and Evan White to correct the situation. Vinny Mancuso questioned how long it would take to resolve the issue. Due to budgetary and space issues, it was estimated that moving the storage containers could potentially take up to a year. Peggy Katochin, Board of Education, speaking as a member of the public urged the Board to take the Town Attorney's advice and give more time for a solution to be worked out. It was determined that the new high school is scheduled to open in July, 2023. After a lengthy discussion regarding the timing and budget constraints, a compromise was reached to use September 1, 2021 as the date for removal of the containers. Joe DePaul questioned the Town Attorney on wording to use to allow the Town to come back to the Board for a variance for the storage containers. The Board entered into the Business Session. Joe DePaul made a motion to grant a height variance to build a new high school per the plans as submitted with the contingency that all the storage containers be permanently removed or brought into compliance with the Zoning Regulations by September 1, 2021; the hardship being the size and shape of the lot, duly 2nd, 5-0. Variance granted.

Application # 50-20: Town of New Fairfield, 24 Gillotti Road, for variances to Zoning Regulations 3.1.7 Maximum Building Area and 3.1.8 Maximum Impervious Coverage for the purpose of renovating the Consolidated Early Learning Academy. Zoning District: R-88; Map: 23; Block: 16; Lot: 12.

Christine O'Hare and Katy Gagon presented the proposal requesting a variance for maximum building coverage over 15 percent and maximum impervious coverage over 25 percent for the proposed new Consolidated Early Learning Academy. The new proposal increases the building size and, therefore, increases the requested coverage. The faculty and bus parking areas would be revised as well as play areas behind the school. Lauren Braun, JCJ Architecture, gave a brief overview of the new addition incorporating areas for the Pre-K, Kindergarten, special education, and motor skills rooms. John Apple ascertained that the variance was for building coverage and impervious coverage, not height. Evan White commented that a stormwater mitigation system would be required. Katy Gagon described the system including 3 smaller detention ponds to supplement the existing system. Mr. DePaul asked what the cost of the stormwater mitigation system was. The cost was estimated at \$150,000 to \$175,000. A brief discussion ensued as to whether the town could have gotten a variance to avoid the cost of the stormwater mitigation system. Joe DePaul asked the public for comment. None given. The Board entered into the

Business Session. Joe DePaul made a motion to grant a variance to allow maximum building coverage over 15 percent and maximum impervious coverage over 25 percent per the plans as submitted; the hardship being the size and shape of the lot and the impervious nature of the soil, July 2nd, approved 5-0. Variance granted.

John McCartney made a motion to adopt the 2021 ZBA Calendar, July 2nd, approved 5-0. Vinny Mancuso made a motion to adjourn the meeting at 10:43 p.m., July 2nd, approved 5-0.